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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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WARNER BROS. ENTERTAINMENT  
INC., et al.,

Plaintiffs,

New York, N.Y.

v.

14 Civ. 3492 (KPF)

JOHN DOE 1 a/k/a WANG WEI  
d/b/a DVDSEA.COM, et al.,

Defendants.

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May 29, 2014  
10:10 a.m.

Before:

HON. KATHERINE POLK FAILLA,

District Judge

APPEARANCES

DAVIS WRIGHT TREMAINE LLP  
Attorneys for Plaintiffs  
BY: LISA D. KEITH

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1 THE CLERK: In the matter of Warner Bros.  
2 Entertainment Incorporated, et al. against John Doe 1, et al.  
3 Counsel, please identify yourself for the record.

4 MS. KEITH: Lisa Keith for the plaintiffs.

5 THE COURT: Good morning to you, Ms. Keith.  
6 Well, you are here alone today.

7 MS. KEITH: Yes.

8 THE COURT: I don't mean that just in the sense that  
9 you don't have any colleagues from your firm with you. I see  
10 that none of the defendants in the case has made an appearance.  
11 So let me ask you a couple of questions in that regard.

12 MS. KEITH: OK.

13 THE COURT: First of all, what efforts were made after  
14 I signed the TRO order to serve the various defendants who are  
15 now listed as Exhibit A to your proposed preliminary injunction  
16 order?

17 MS. KEITH: So the order provided, your Honor, that we  
18 serve the defendants within five days of your order. So your  
19 order was signed on May 15th. On May 20th we served all of the  
20 email addresses in Exhibit A via registered mail, using a  
21 service called "rplst."

22 THE COURT: All right. I can tell you from this end  
23 that we in chambers received no communications from any  
24 defendant.

25 Did your law firm or any of the plaintiffs in this

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1 case receive any communications from them?

2 MS. KEITH: No. We have received no communication.

3 THE COURT: All right.

4 MS. KEITH: I also served PayPal and PayPal would also  
5 have notified anyone whose accounts were restrained, and they  
6 give our Davis Wright Tremaine email address, and we didn't  
7 receive any emails on that email address either.

8 THE COURT: All right. I've reviewed several orders  
9 that you've given me for my consideration, and I'll talk about  
10 the longest one first and that is the proposed preliminary  
11 injunction order.

12 There are provisions in here regarding expedited  
13 discovery. Could you tell me, please, what discovery you were  
14 able to do during the pendency of the TRO?

15 MS. KEITH: So far, we've served PayPal and we are  
16 reviewing the PayPal records right now. And so further  
17 discovery that might happen in the future would be possibly if  
18 there are bank accounts identified through the PayPal records,  
19 serving those banks.

20 THE COURT: And I guess that that goes as well to my  
21 question of the ex parte asset restraint provision of your  
22 proposed order. Have there been assets identified for you or  
23 your clients to restrain?

24 MS. KEITH: Yes. The only asset so far that we have  
25 restrained are with PayPal, and it was how much -- it was

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1 either 2 or \$3,000.

2 THE COURT: All right. You were able to seize control  
3 of the individual websites, is that correct?

4 MS. KEITH: That is correct, your Honor.

5 THE COURT: All right. So to the best of your  
6 understanding, there is nothing in those web -- I'm sorry,  
7 there is no ability today to conduct the what you claim to be  
8 infringing conduct through these websites because they are  
9 under your control?

10 MS. KEITH: They are not under our control yet but  
11 they are disabled.

12 THE COURT: OK. Could you talk to me about the  
13 difference, please?

14 MS. KEITH: Yes. So normally what we do is we start  
15 out with the TRO and we disable the website. Then the  
16 preliminary injunction would continue that registry hold that  
17 is placed on the website, and that's done? At the registry  
18 level. So all eight of these websites were with the registry  
19 VeriSign. So right now VeriSign has them on I guess it is  
20 called a registry hold so that nobody can access them. Then  
21 later on in the case, if we move for a default judgment and  
22 permanent injunction, at that stage we would normally ask that  
23 the websites be transferred to our control, and then we would  
24 serve that order on VeriSign and put the websites into our  
25 account. And that would be when you could use the websites to

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1 put up a posting notice or whatever you might choose to do with  
2 them, but right now we don't control them; they are just down.

3 THE COURT: OK. And in this order you are still just  
4 seeking to keep them disabled, as opposed to moving control  
5 over to you?

6 MS. KEITH: That is correct.

7 THE COURT: All right. Has any of the information  
8 from the PayPal accounts provided to you any additional  
9 evidence to support the claims of copyright infringement that  
10 you have articulated in your prior papers and in the current  
11 order?

12 MS. KEITH: Your Honor, there is nothing that goes to  
13 copyright infringement thus far, but the records do show that  
14 the addresses provided both in connection with the registration  
15 of the websites and in connection with the PayPal accounts seem  
16 to be fake addresses and that many of them originate from  
17 China.

18 THE COURT: OK. All right. Well, that is the state  
19 of affairs.

20 I can say, I have been given this proposed preliminary  
21 injunction order, and there are a lot of recitals that I will  
22 not repeat into the record. But I will note that on May 15th,  
23 in a prior proceeding, I was given a lot of documentation,  
24 particularly declarations from various representatives of the  
25 individual plaintiffs, demonstrating for me and explaining to

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1 me how certain materials, in particular DVDs of movies and  
2 television shows, had been copied inappropriately and were  
3 being offered for sale on the websites that are listed in  
4 Exhibit A.

5 I do believe at this time that the plaintiffs have met  
6 the standards for the granting of a preliminary injunction, and  
7 those standards are outlined in this order. And for those  
8 reasons, and because there is nothing that has turned up since  
9 May 15th that tends to cast doubt on the evidence that I've  
10 looked at, which suggests that there is rampant copyright  
11 infringement, I will sign the proposed preliminary injunction  
12 order, and I will also sign the order that has been given to me  
13 and proposed to unseal the file in this case.

14 Ms. Keith, just a few thoughts.

15 At the close of this proceeding, I'd ask you, please,  
16 to order the transcript so that it will be available to me, and  
17 if and when a defendant would appear in this case, they will  
18 have knowledge of what has happened at this proceeding.

19 Secondly, it's my assumption that in time your law  
20 firm will pursue a default judgment in this case by obtaining  
21 certificates of default and then taking the next steps. Is  
22 that correct?

23 MS. KEITH: That is correct, your Honor.

24 THE COURT: All right. My individual rules of  
25 practice speak to this issue, and so I will simply await that

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1 from your law firm.

2 MS. KEITH: Great.

3 THE COURT: Is there anything further you want to  
4 address with me today?

5 MS. KEITH: Yes. I actually have -- so the order also  
6 requires a seizure declaration to be filed within ten business  
7 days of the order, which I think is tomorrow. So I have  
8 prepared that and I was going to file it tomorrow, but if you  
9 would like, I could give that to you. And I also have an  
10 affidavit of service from our paralegal.

11 THE COURT: OK. We'll take those since you have  
12 brought them.

13 MS. KEITH: OK.

14 THE COURT: And is there anything else?

15 MS. KEITH: No. I also just wanted to let you know  
16 that we've secured the bond so I will get that on file.

17 THE COURT: All right. Great.

18 OK. Thank you very much for coming in today.

19 MS. KEITH: Thank you, your Honor.

20 THE COURT: And certainly if you hear from any of the  
21 defendants, you will let us know.

22 MS. KEITH: Yes.

23 THE COURT: OK. Thank you.

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